IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 21568 of 2007

For Approval and Signature:

HONOURABLE MR.JUSTICE AKSHAY H.MEHTA

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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URMILABEN KANUBHAI RANA
Versus
STATE OF GUJARAT AND OTHERS

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Appearance :
MS E.SHAILAJA for the Petitioner
Mr Krunal Pandya, Assistant Government Pleader for the respondents

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CORAM : HONOURABLE MR.JUSTICE AKSHAY H.MEHTA

Date : 03/09/2007

ORAL JUDGMENT

Rule. Mr Krunal Pandya, learned Assistant Government Pleader waives service of Rule for the respondents. At the request of the learned

advocates for the parties, the matter is taken up for final hearing today.

The petitioner is a destitute woman who has applied for the benefit of the scheme known as Widow/Deserted/Destitute Woman Benefit Scheme where under she is entitled to receive the amount of Rs.660 as financial assistance to enable her to maintain herself and the children. It is the say of the petitioner that she got married in the year 1985 and bore two children to her husband, but, later on, she was driven out of the house by her husband and since then she has been staying alone with her children. It is her say that she did not have any means of livelihood and therefore when she learnt about the scheme she applied for the benefit by submitting the application on 28th May 2003, which was received by the authority on the same day. However, the petitioner came to know about grant of her application and the benefit under the said Scheme only when she received the intimation vide letter dated 22nd March 2006. By the said letter she was called upon to open WFA account in the nearby post office by complying with certain requirements. She complied with the direction and opened the account on 29th March 2006. However, till this date she has not received any financial assistance and therefore she has approached this Court to make the grievance about it and also to obtain appropriate relief in that behalf.

I have heard Ms Sailaja for the petitioner and Mr Krunal Pandya for the respondents. The respondents have resisted the petition by filing affidavit-in-reply. It is the say of the respondents that the Scheme has been discontinued with effect from August 2003. It is further stated that though the application of the petitioner was sanctioned on 31st May 2003 due to paucity of staff the intimation could not be given to her in time and she was intimated only by letter dated 23rd March 2006. It is also the say of the respondents that since the petitioner had not complied

with the requirement of the Scheme by opening the account in the nearest post office no benefit has been given to her. It is the submission of Ms Sailaja that the averments of the respondents are not true. The petitioner immediately upon receiving the intimation within three days has opened the account and that cannot be the reason for withholding the benefit from her. She has further submitted that when the application of the petitioner was sanctioned way back on 31st May 2003 there was no reason for the respondents to deprive the petitioner of the benefit for almost three years. She has, therefore, submitted that even for three months the benefit has to be given to the petitioner and that too with interest. Mr Pandya has, however, submitted that since there was no compliance of the requirement of opening the account in the post office, there was no fault on the part of the respondents in withholding the benefit from the petitioner.

I have carefully considered the submissions as well as the record of the petition. It clearly appears that the petitioner's case was covered under the Scheme which was in existence at the relevant time i.e. when she made the application for financial assistance. That is also the view of the respondents since her application was within short time accepted and was granted with effect from 31st May 2003. It is, however, to be noted that the intimation was given to the petitioner as late as on 22nd March 2006. By the said letter the petitioner was called upon to open the account in the nearby post office. Thus, it is very clear that for the first time the petitioner was informed that her request was granted and she was required to open the account in March 2006. Almost immediately that requirement has been fulfilled by the petitioner. In other words, she opened the account on 29th March 2006 in the nearby post office. Therefore, there is no reason for me to accept the case of the respondent that the petitioner did not comply with the necessary requirement and

respondents were justified in withholding the benefit. Further, it is the case of the respondents that due to paucity of staff the intimation could be given only after a period of three years. This story cannot be accepted. When the application could be accepted and sanctioned within few days, it is not possible to believe that there was no staff available with the respondents to intimate the petitioner of the approval after nearly three years. The respondents should have been careful in advancing such reason for explaining the delay, which is otherwise unpardonable on their part. Be that as it may, it is very clear that without any justifying reasons the respondents had not intimated to the petitioner about the grant of benefit to her in time and that deprived her of the legitimate right to receive the financial assistance for all these years. However, considering the fact that the said scheme was discontinued with effect from 31st July 2003 the petitioner would be entitled to receive the assistance for the period between 1.4.2003 and 31st July 2003. Since that benefit was not given to her in time and it was unnecessarily denied to the petitioner for all these years, the respondents are liable to pay interest for this period. Had this benefit been given to the petitioner in time, she would have invested some amount with the postal authority and drawn some interest. In view of the same, the respondents are directed to pay the aforesaid amount of assistance for the period between 1.4.2003 and 31st July 2003 together with interest at the rate of 10% from the date of application till the date of payment within one month from the date of receipt of this order.

Rule is made absolute with costs.

(Akshay H Mehta, J.)

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